

**UNITED STATES COURT OF APPEALS**

**JAN 30 2003**

**TENTH CIRCUIT**

**PATRICK FISHER**  
Clerk

ELEAZAR SOLIS,

Petitioner - Appellant,

v.

T. C. PETERSON, Warden,

Respondent - Appellee.

No. 02-6225  
D.C. No. CIV-02-169-C  
(W.D. Oklahoma)

**ORDER AND JUDGMENT\***

Before **EBEL, LUCERO** and **O'BRIEN**, Circuit Judges.

Eleazar Solis, an inmate at the Federal Correction Institute in El Reno, Oklahoma, filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241 in the District Court for the Western District of Oklahoma. Solis wishes to retroactively challenge his sentence in light of the United States Supreme Court's decision in Apprendi v. New Jersey, 530 U.S. 466 (2000).

\*After examining the briefs and appellate record, this panel has determined unanimously to grant the parties' request for a decision on the briefs without oral argument. See Fed. R. App. P. 34(f) and 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

The district court construed Solis's petition as a § 2255 petition and dismissed it for lack of jurisdiction. Petitions filed under § 2255 must be filed in the district court where the petitioner was sentenced. 28 U.S.C. § 2255. Although Petitioner was sentenced in the Western District of Michigan, this petition was filed in the Western District of Oklahoma. For substantially the same reasons as stated by the district court in its Order of June 6, 2002, dismissing the appeal, we DENY a certificate of appealability and AFFIRM the dismissal.

ENTERED FOR THE COURT

David M. Ebel  
Circuit Judge